

The Westfield-Washington Township Advisory Plan Commission met at 7:00 p.m. on Monday, March 27, 2006 at Westfield Town Hall. Members present were Gloria Del Greco, Jack Hart, Bob Horkay, Brian Morales, Bill Sanders, Teresa Skelton, Cindy Spoljaric, and Carolyn Stevenson. Also present were Kevin Buchheit, Al Salzman, Tom Higgins, and Attorney Brian Zaiger.

Buchheit asked for a point of clarification from the Town Attorney, Brian Zaiger, regarding the presence of Horkay at the meeting since it was determined earlier in the day that Horkay, now that he has been annexed into the Town of Westfield, is no longer eligible to serve as a Township member of the Advisory Plan Commission.

Zaiger stated that his opinion is that Horkay is no longer within the pool of those eligible to serve in the capacity he was previously serving and that he is ineligible to serve now. He stated the statutes and rules of procedure that we have followed in the past on BZA appointments, Plan Commission appointments and the various other boards and commissions we have all have to do with an appointment that had expired and had not been reappointed. He further stated that this is pretty much the same as if the person moved into another town or township; the statute that gives jurisdiction to those being appointed is very clear in our case because it states very clearly that the appointments from the township are from those people that live in the township and not in the town; it specifically excludes those people within the Town.

Buchheit clarified the reason for his asking for point of clarification is that this could present a real easy challenge for anyone who decided to challenge any outcome of any petition tonight which is not a fair venture to take for any of the petitioners.

Horkay responded as is often times the case where legal minds can look at similar information and draw different conclusions, he does not want to do anything he should not be doing as well. He stated he specifically asked the Washington Township Trustee if he needed to go away as of the effective date of the annexation, or should he serve until his replacement is appointed; the Trustee's office legal representation, Barnes & Thornburg, Bradley Bingham, advised Horkay that he should be able to continue to serve until his replacement is appointed. Horkay passed out copies of the legal opinion of Barnes & Thornburg.

Buchheit stated the safest route from the perspective of the Commissioners would be for Horkay to step down and asked that any of the petitioners wishing not to proceed with the meeting due to this to please say so now.

Horkay stated to the Plan Commission that he likes what he is doing and is prepared for the meeting. He also stated they have heard differing opinions and have several different options; the Commission can let the opinions of the respective attorneys stand and continue with business. He further stated that one of the key points about the Barnes & Thornburg is there has not been a case like this before; there is no case law that has made a determination on this.

Hart stated his concern was that the Township Trustee knew well in advance of tonight's meeting about this situation and asked why there had not been an appointment.

Horkay stated the interview process has started and he was asked by letter to continue to serve in his current capacity until an appointment was made.

Sanders stated he felt it was unfair to question Bob; he has done nothing with malicious intent, and the problem should be resolved by the Commission by motion.

Spoljaric disagrees and stated this is a situation for the attorneys to figure out.

Zaiger stated he is the Town attorney, and his opinion is different from that of Barnes & Thornburg and that following Buchheit's advice is probably the most prudent way of handling this situation.

Del Greco suggested having Horkay proceed with the meeting but abstain from voting so as not to cause any reason for a petitioner to challenge.

Skelton agreed with Del Grecco's suggestion.

Stevenson suggested adjourning and holding a special session when the issue is resolved.

Buchheit stated we are talking about following legal advisor's advice here; this is a simple statement of fact that Horkay is ineligible to serve; he cannot be a township appointment. Buchheit further stated he does not want that to impact or give anybody in the room for or against a petition an opportunity to sue and have that be the reason.

Horkay stated the commission should agree or disagree and that he himself is agreeable to the abstention suggestion.

Hart stated he has no problem with Horkay running the meeting and abstaining from voting but does feel the meeting should proceed in fairness to the petitioners who showed up expecting to conduct business.

The Commission agreed to allow Horkay to preside over the meeting but abstain from voting on any petitions.

Buchheit left the meeting at approximately 7:25 p.m.

Stevenson stated there should be a correction on page three where it states Sanders presented a drawing for a Walgreen's in Illinois; she believes it was she who presented the drawing.

Hart moved to approve the February 27, 2006 minutes as amended.

Del Greco seconded, and the motion passed by voice vote (Skelton and Horkay abstained).

Salzman reviewed continued items on the agenda.

Todd reviewed the Public Hearing Rules and Procedures.

## **OLD BUSINESS**

**0602-PUD-04**      **3510 East 151<sup>st</sup> Street.** Throgmartin-Henke Development, LLC requests a change in zoning for approximately 14.53 acres, from the AG-SF-1 District to the Bridgewater PUD district.

Mr. Don Currise, Thorgmartin-Henke Development, presented details of the project which is to amend the PUD text to include a 14.5 acre tract. He stated this project has been to committee and is now returning to the Plan Commission.

Horkay asked for a committee report.

Stevenson stated the committee was prepared to send it forward.

Spoljaric questioned the visual density at this corner as well as the far building setbacks. She stated it is visually heavy and wants to go on record saying that she still has concerns about the 60 foot wide potential of lots in this area, the four-foot side yard set backs, and just does not feel comfortable that this fits the community.

A Public Hearing opened at 7:40 p.m.

Ms. Melissa Risk asked whether the sidewalks will be continuous from the neighborhood up to the schools.

The Public Hearing closed at 7:42 p.m.

Currise responded to the public hearing question stating the developer will be following what has been done throughout the development with the path going along 161<sup>st</sup> and north on Carey Road to the school property line. He also stated there is a crossing that ties into the path/trail way that continues down Carey Road.

Spoljaric noticed the roundabout concept is not shown on the plans.

Currise responded the roundabout concept has been reviewed briefly, but at this time this concept is not being addressed since the developer does not own the properties on the two sides and therefore does not own the rights of way.

Skelton moved to send 0602-PUD-04 to the Town Council with a positive recommendation with the updated legal for the entire area before the ordinance is recorded.

Stevenson seconded, and the motion passed 7-0-1 (Horkay).

**0602-REZ-01                      19720 North Tomlinson Road.** P. C. Wright & Co. requests a change in zoning for approximately 41.73 acres, from the AG-SF-1 District to the SF-2 District.

Mr. Chuck Wright, PC Wright & Company presented details of the rezone request further stating this petition has been before Committee twice with positive changes and results, including moving the common area north and west from its original location, adding stub streets for any future development, and changes to preliminary site plan showing public access. Wright read the commitments as listed below:

1. Developer shall dedicate forty foot half right of way along the west side of Tomlinson Road.
2. Developer shall purchase and dedicate forty feet half right of way along the north side of future 196<sup>th</sup> Street extension westward beyond Tomlinson Road prior to final plat recording; the right of way shall be contiguous to the project's southern property line.
3. When the covenants are written, each lot shall have a minimum of \$6,000 in landscaping.
4. Dedication of tree preservation areas: thirty feet wide along the north property line and forty feet along the southern property line.
5. The common area within the subdivision shall contain a conservancy area equal to one acre to be maintained by the homeowner's association; the maintenance program will be defined in the future covenants and restrictions.
6. The final construction plans shall include the following in the design of the entry to the subdivision: masonry walls, lighted landscaping, and fountains in the entry ponds shall be included in the final construction plans.
7. A walking path from the subdivision to 196<sup>th</sup> Street right of way to access Westfield Washington School Corporation's intended trailhead at the southwest corner of the project shall be included in the final construction plans.
8. Developer to provide eight foot wide asphalt path along the west side of Tomlinson Road.
9. Maximum number of lots on these 41.73 acres shall be 70.
10. All homes in the subdivision will be a minimum of 1,800 square feet of heated living space on the main level not including basements, garages, porches, etc. For two-story homes with an overall heated minimum of 3,000 square feet and a minimum of 2,400 square feet of heated living space for ranch style homes.
11. Developer shall act as Architectural Review Committee to insure exterior of the homes are uniquely created by all builders. All home exteriors shall consist of a majority of brick, stone, other masonry materials or wood siding, supplemented with cement fiber board type siding; no vinyl or aluminum siding except for soffit, windows, and exterior doors; no wood sheet products will be used as an exterior finish on any home.
12. All garages will be at least two-car capacity and a minimum of 36 lots will be side or rear load as lot configuration and home footprint dictates.
13. A tree inventory will be made to identify the quantity and quality of trees to be preserved prior to obtaining an Improvement Location Permit to construct homes.
14. There will be no trees within the dedicated right of way or utility easements; it is the responsibility of the developer to remove trees at the developer's expense for the dedicated right of way of Tomlinson Road and replace those removed trees with road frontage trees per the Town of Westfield Ordinances.

Horkay expressed concern about the dollar amount (\$6,000) of landscaping rather than identifying specifics.

Hart stated the Committee decided this could be addressed as a covenant.

Spoljaric asked if there was a clubhouse or any amenities.

Wright responded no, not at this time.

A Public Hearing opened at 7:55 p.m.

Ms. Karen Isminger addressed the close proximity to the Monon and asked about greenways and how the Monon is going to be developed. She also asked how we make sure there are enough good buyers for developments like this.

The Public Hearing closed at 7:57 p.m.

Spoljaric commented again about the plans for amenities.

Wright responded the plans are for a clubhouse and pool in the fourth section once they reach a certain lot number at this density.

Hart moved to approve 0602-REZ-01 with commitments including the change to verbiage in #10 on the type of siding, i.e. cement fiber board rather than hardiplank.

Del Greco seconded, and the motion passed 7-0-1 (Horkay).

### **NEW BUSINESS**

**0603-DP-02 & 322 West Main Street.** Westfield-Washington Schools requests Development  
**0603-SIT-01** Plan and Site Plan Review of a proposed new 54,400 square foot parking  
lot/marching band practice field on 3.5 acres of the middle school campus in the  
SF-3 District.

Mr. Aaron Reynolds, Paul Cripe Engineers, presented details of the project, and introduce Frank Hinds also with Paul Cripe.

Spoljaric expressed concern about the visual effect of the band tower.

Horkay agreed.

Hinds discussed the design of the band tower.

A Public Hearing opened at 8:22 p.m.

No one spoke, and the Public Hearing closed at 8:23 p.m.

Sanders moved to approve 0603-DP-02 with the following conditions:

1. That the petitioner complies with any requirements from the Westfield Public Works Department;
2. That the petitioner complies with any requirements from the Hamilton County Surveyor's Office;
3. That these conditions be fulfilled prior to use of the parking lot;
4. That Cripe possibly make the suggestion to use earth tones and no raw metal - all coated or painted.

Skelton seconded, and the motion passed 6-0-2 (Horkay, Hart).

Sanders moved to approve 0603-SIT-01 with the following condition:

- That the petitioner complies with any conditions as a part of 0603-DP-02.

Skelton seconded, and the motion passed 6-0-2 (Horkay, Hart).

**0603-DP-04 & 3510 East 151<sup>st</sup> Street.** Throgmartin-Henke Development, LLC requests  
**0603-SPP-02** Development Plan and Preliminary Plat Review of the Bridgewater Section H subdivision, 28 lots on 12.008 acres in the Bridgewater PUD District.

Currise presented details of the project and discussed the development plan for Section H of the Bridgewater PUD. He stated this is a 65' lot development, and that changes have been made to buffers around this development, including a 20' buffer on the west, 20' buffer to the south, 20' buffer to the east, and within Section C, which is adjoining, a 20' buffer; therefore, to the east there is a 40' foot landscape buffer.

Currise also stated there are 15'-25' pines and spruces along the property line which will be maintained. He stated that originally, the project was approved for 28 lots, with the clarification and reworking of the buffers, there are now 26 lots. He further stated that the internal roads will be private in the development; the main entry is right across from Section B; there will be a gate at this entryway. Currise added that all garages will be rear entry type garages.

Finally, he stated that Staff asked, through TAC, that the roadway be 24 feet; although a 24-foot easement has been allowed, it is the petitioner's preference, due to aesthetics, that this be reduced to 16' with the Fire Department's approval.

Spoljaric asked to see the plan for connectivity.

Currise showed the trails, golf cart path, and connectivity plan and described the park.

Del Greco asked about student bus pickup.

Currise responded the students will be picked up at the entry way.

A Public Hearing opened at 8:50 p.m.

No one spoke, and the Public Hearing closed at 8:51 p.m.

Hart moved to approve 0603-DP-04 with the following conditions:

1. That the petitioner complies with any requirements from the Westfield Public Works Department;

2. That the petitioner complies with any requirements from the Hamilton County Surveyor's Office;
3. That a compliant landscaping plan be provided prior to the issuance of an ILP for the subject site.
4. A compliant lighting plan, be provided prior to the recording of a secondary (final) plat for Section H;
5. 16' foot wide streets pending approval from the Fire Department;
6. That these conditions be fulfilled prior to receiving a building permit.

Spoljaric seconded, and the motion passed 7-0-1 (Horkay).

Hart moved to approve 0603-SPP-02 with the following condition:

- That all conditions attached to the associated Development Plan Review shall be satisfied prior to the recording of any secondary plat.

Skelton seconded, and the motion passed 7-0-1 (Horkay).

Sanders moved to delegate final plat to staff.

Hart seconded, and the motion passed 7-0-1 (Horkay)

**0603-DP-05 & 0603-SPP-03**      **16707 Spring Mill Road.** Centex Homes requests Development Plan and Preliminary Plat Review of the Spring Mill Commons subdivision, 64 lots on 39.982 acres in the SF-2 District.

Mr. Jonathan Isaacs, Centex Homes, presented details of the project stating they have satisfied all the concerns brought up in March 1 TAC meeting and are requesting plat approval. He also stated all buffer yard requirements have been satisfied and although there are some shrub deficiencies in the landscaping plan, will continue to work with staff to make sure those are satisfied. Isaacs stated that due to some minor problems with the Public Notice, petitioner is requesting modification of rules and procedures in order to accept the secondary notice. He stated the request to delegate secondary plat to staff.

Spoljaric asked staff if the plan complies with amenity requirements.

Salzman responded that the single family district does not have an actual enforceable amenity requirement. He further stated there is a minimum open space requirement and this plan does meet the 8% requirement.

Spoljaric asked staff if the required caliper is 2-inch or 2 ½ inches.

Todd responded the minimum requirement is two inches.

Morales asked if the homes would be covered by the Countryside homeowner's association.

Isaacs responded no.

A Public Hearing opened at 9:17 p.m.

Ms. Sandra Cunningham expressed concern about the berm sites on the east, south, and west boundaries, that they be raised.

Mr. Shawn Harper asked questions regarding building materials, whether they would be brick fronts or all brick, and also the south and east side fence rows lined with fairly large trees and whether they will be preserved.

Ms. Debbie Pearson expressed concern about the ranch homes in the community since it does not fit what is in the existing neighborhood.

The Public Hearing closed at 9:21 p.m.

Isaacs responded to the public hearing comments.

Horkay asked if petitioner would commit to lots at the eastern end or most of the eastern end have two-story homes.

Isaacs responded that without review and without restricting home buyers, he does not believe that commitment could be made.

Horkay stated the landscaping plan is out of compliance until the homeowners make it compliant.

Isaacs committed to work at saving the perimeter trees to best of their ability.

Salzman stated he would work with the petitioner on a preservation plan for that tree line.

Isaacs committed to working with Salzman on tree preservation plan.

Spoljaric stated this appears to be one of those “do exactly the minimum we need to scrape by;” although she realizes that is all that needs to be done legally, Westfield deserves more. She further stated she is still troubled by the lack of amenities.

Isaacs stated they exchanged common open space for private open space.

Sanders moved to continue 0603-DP-05 to the April Plan Commission meeting and for renotification.

Stevenson seconded, and the motion failed 5-2-1 (Sanders, Stevenson) (Horkay).

Hart moved to approve 0603-DP-05 with the following conditions:

1. That the petitioner complies with any requirements from the Westfield Public Works Department;
2. That the petitioner complies with any requirements from the Hamilton County Surveyor's Office;
3. That a compliant landscaping plan be provided prior to the issuance of an ILP for the subject site.



4. That a detailed sign plan depicting compliance with all applicable provisions of the Sign Regulations be provided prior to the issuance of an ILP for either proposed freestanding entry monument sign.
5. That these conditions be fulfilled prior to the filing of any Secondary (Final) Plat for the subject site.

Skelton seconded, and the motion failed 2-5-1 (Spojaric, Morales, Sanders, Stevenson, Del Greco) (Horkay).

Zaiger stated since the project was not approved, the Commissioners need to determine what deficiencies caused the project to not be approved which include:

- Failure to comply with notice requirements
- Landscaping and setback development standards
- Failure to comply with the Westfield Zoning Ordinance

Sanders moved to accept first class mailing notice with the properly executed affidavit that said notices have been sent.

Del Greco seconded, and the motion passed by voice vote.

Spoljaric left the meeting at 9:58 p.m.

**Road Impact Fees**     Review of proposed Road Impact Fee changes - modification to the fee schedule used to calculate impact fees for development within Westfield and Washington Township.

A Public Hearing opened at 9:58 p.m.

No one spoke, and the Public Hearing closed at 9:59 p.m.

Stevenson asked where the fees came from and what they were used for.

Zaiger and Ms. Rene Goff explained the source and use of the impact fees.

### **Comprehensive Plan Amendment**

Horkay feels the first draft of the proposed Comprehensive Plan Amendment is way off the mark.

Plankis validated Horkay's comment, further stating the first draft did not look at all like what was presented by the subcommittees.

Stevenson once again commented on Buchheit's behavior at the beginning of the meeting.

Del Greco commented as well.

The meeting adjourned at 10:17 p.m.

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President

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Secretary